HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL NO.499 OF 2006

Between:

The Singareni Collieries Company Limited
and others

. . .Appellants

AND

Banoth Mangilal

. . .Respondent

Counsel for the Appellants : Shri K.Srinivasa Murthy

Counsel for the Respondent : Shri P.V.Ramana

Dated: 20th September, 2006

: ORDER :

PER G.S.SINGHVI, CJ

Whether the High Power Committee constituted by the management of Singareni Collieries Company Limited (for short 'the company') in pursuance of the memorandum of settlement dated 21.02.2000 signed between the management of the company and their workmen represented by Singareni Collieries Workers Union could evolve a criteria for adjudging the suitability and merit of the dismissed employees for the purpose of re-employment, is the short question which arises for determination of this appeal filed by the Company and its functionaries under clause 15 of the Letters Patent for setting aside order dated 16.03.2006 passed by the learned Single Judge.

Respondent – Shri Banoth Mangilal was engaged in the services of the Company sometimes in December, 1995. In that month, he worked for a period of twelve days. In the next three years, he worked for 89 days, 85 days and 65 days respectively. In the year 1998, a domestic enquiry was held against him on the charge of remaining absent. The enquiry officer found him guilty. Thereafter, the management of the company dismissed him from service with effect from 30th December, 1998.

The dismissal of the respondent and other similar workers became subject-matter of strike notice dated 29-12-1999 given by the workers union. After detailed negotiations, management of the company and the workers union signed memorandum of settlement dated 21-02-2000. Item No.26 of the memorandum of settlement, which has bearing on the decision of this appeal, reads as under:

"ITEM No.26: Review of the case of workmen dismissed on

absenteeism for their re-appointment (Demand No.38)

The Union has stated that some of the workmen whose attendance was relatively better in the previous years were dismissed that such cases should be considered for reinstatement, to avoid the hardship to such workmen and their families.

The management has stated that disciplinary action was taken against the chronic/long absentees in accordance with the procedure laid down in Company's Standing Orders.

In view of the persistent request made by the union it is hereby agreed that a High Power Committee headed by Director (PA&W) will examine the cases of workmen dismissed on account of absenteeism during the period from 01-01-1997 to 31-12-1999.

Such of those dismissed workmen who deserve favourable consideration on merits and recommended by the committee will be appointed as Badili fillers for a period of one year of a trial basis. If the Workmen on such re-employment do not put in satisfactory attendance of 190 actual muster in a year (trial period) their services would stand terminated at the end of the year without any notice."

For implementing the above reproduced paragraph of the settlement, the management of the company constituted a High Power Committee. Before undertaking exercise for determining suitability of the dismissed workers for re-employment, the High Power Committee devised the following criteria:

" An ex.employee who is aged below 55 years as on 21.02.2000 and put in 190/240 musters (Underground/Surface) in two calendar years or 150/200 musters (UG/Surface) in the four calendar years during the

period of five years preceding the year of dismissal and the year of dismissal will be treated as qualified for selection. A person not fulfilling the above criteria will be treated as not qualified for selection."

It is borne out from the record that the Committee considered the candidature of the respondent and other dismissed employees for reappointment as Badili Coal Fillers, but did not recommend his case apparently because he did not satisfy the above reproduced criteria.

Dissatisfied with the decision of the company not to re-appoint him, the respondent filed Writ Petition No.5797 of 2002. The learned Single Judge allowed the writ petition and directed the company to consider the petitioner's case for re-appointment as Badili Coal Filler in terms of the settlement arrived in between the management of the company and the workers union.

Ms. V.Uma Devi, learned counsel for the appellant argued that the reason assigned by the learned Single Judge for directing re-consideration of the respondent's case is legally untenable and the order under challenge is liable to the set aside. She pointed out that after considering the respondent's case in accordance with the criteria evolved by it, the High Power Committee did not recommend his case because he had not completed 190 musters in any of the years of his employment preceding the order of dismissal. Shri P.V.Ramana, learned counsel for the respondent supported the order impugned in the appeal and argued that the decision of the management of the company not to re-appoint the respondent was wholly arbitrary and discriminatory and the learned Single Judge did not commit any error by ordering re-consideration of his candidature for re-appointment.

Shri Ramana emphasised that other two persons, who were re-appointed on the recommendations of the High Power Committee did not satisfy the criteria laid down by the Committee and argued that the respondent could not have been discriminated in the matter of re-appointment.

We have considered the respective submissions.

A careful reading of the order under challenge shows that counsel appearing for the parties as also the learned Single Judge proceeded on the premise that completion of 190 musters in a calendar year was a condition precedent for consideration of candidature of dismissed employees for the purpose of reappointment. In the opinion of the learned Single Judge, when the company had considered the candidature of two other employees namely one Kishan and Banoth Chandulal even though they had not completed 190 musters in a calendar year, there could be no justification, legal or otherwise to deny similar treatment to the writ petitioner. The learned Single Judge noted that the candidature of other two workmen appear to have been considered by the management of company on the recommendations made by National Commission for Scheduled Castes and Scheduled Tribes and observed that this extraneous factor was not sufficient to deny similar treatment to the respondent.

In our opinion, the reason assigned by the learned Single Judge for entertaining the respondent's prayer for reconsideration of his case for reappointment is legally untenable and the order under challenge is liable to be set aside.

It is not in dispute that in furtherance of the settlement arrived at between the management of the company and the workers union, the former constituted High Power Committee headed by the Director (P A & W). The said Committee evolved criteria to consider the candidature of only those who had completed five years service and worked for

150 / 200 musters in the preceding four calendar years. The respondent had served the company for a period of three years and one month. In the first year, he worked for only 12 days. In the next three calendar years, he worked for 89 days, 85 days and 65 days respectively. It is thus clear that in none of the three calendar years preceding his dismissal from service, the respondent had worked for a period of even three months. Therefore, he was clearly ineligible to be considered for re-appointment and the High Power Committee did not commit any illegality by not recommending the respondent's name for re-appointment.

We are further of the view that the High Power Committee could legitimately prescribe the requirement of minimum service for the purpose of judging the suitability and merit of the dismissed workers for re-appointment and the respondent, who does not satisfy the criteria, cannot complain of discrimination.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. As a consequence, the writ petition filed by the respondent shall stand dismissed.

As a sequel to allowing of the Writ Appeal, W.A.M.P.No.1079 of 2006 filed by the appellant is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 20.09.2006

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